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WHATCOM COUNTY COUNCIL
Regular County Council

July 10, 2007

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane
Sam Crawford
Seth Fleetwood
Laurie Caskey-Schreiber
L. Ward Nelson

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced that there was an **update for County Council on open collective bargaining agreement (AB2007-018)** and **discussion with Chief Civil Deputy Prosecutor Randall Watts regarding pending litigation (AB2007-018)** in executive session during the Committee of the Whole meeting.

Crawford moved to provide the Sheriff's deputies with the full coverage.

Motion carried unanimously.

Weimer also announced that there was **discussion regarding work assignment proposals for the Council's Planning and Policy Analyst (AB2007-228)** in the Committee of the Whole meeting.

SPECIAL PRESENTATION

- 1. GLENN WINCHESTER; PRESIDENT OF SCOTTISH HIGHLAND GAMES, TO PRESENT PLAQUES OF THANKS TO THE COUNTY EXECUTIVE PETE KREMEN AND THE COUNTY COUNCIL (AB2007-017)**

This item was not discussed.

- 2. LILY POINT ACQUISITION PRESENTATION BY COUNTY EXECUTIVE PETE KREMEN (AB2007-017)**

Pete Kremen, County Executive, stated the administration has been working toward acquiring a special piece of property at Lily Point. They are fortunate to have the Whatcom Land Trust, specifically Rand Jack, put together a package to acquire this special piece of property.

1 Rand Jack, Whatcom Land Trust, stated the sale price is \$3.5 million dollars. It is 90
2 acres of land and 40 acres of tidelands at the southeastern tip of Point Roberts. They have
3 received many grants for the purchase. He asks the Council to approve \$500,000 from the
4 conservation futures fund for the purchase. The intent is to acquire the property, and then
5 transfer it to the County Parks and Recreation system. The Land Trust will retain a
6 conservation easement. He showed pictures of the site.
7

8 Caskey-Schreiber stated she applauds Mr. Jack and Executive Kremen for bringing
9 forward this purchase. Lily Point is one of the last areas in the Puget Sound that is
10 untouched by man. The park will be gorgeous. She supports the acquisition.
11

12 Brenner stated she would like someone to be assigned to give monthly tours. It's an
13 opportunity to provide real education. She supports the acquisition.
14

15 Fleetwood asked the zoning density on the north side of the property line. Jack
16 stated the density is one house per acre. It's possible to have denser zoning if water and
17 sewer were available.
18

19 Fleetwood asked the state of the trails. Jack stated there are worn trails. The
20 County would construct designated trails. There would be a trail network in the woods and
21 on the beach. He is in touch with an organization that does marine education, which will set
22 up a program. The Land Trust will set run tours of the site during low tides.
23

24 Fleetwood stated he supports the acquisition. He asked the running balance in the
25 conservation futures fund.
26

27 Dewey Desler, Deputy Administrator, stated it is about \$2.8 million. The fund brings
28 in about \$900,000 per year.
29

30 Crawford stated this item is in the **ordinance amending the 2007 Whatcom**
31 **County Budget, seventh request, in the amount of \$500,000 (AB2007-277)** that will
32 come up later in the meeting tonight.
33

34 **MINUTES CONSENT**

35
36
37 ***Brenner moved*** to approve the Minutes Consent items.
38

39 ***Motion carried unanimously.***
40

- 41 **1. SPECIAL COUNCIL WORK SESSION (BUDGET) FOR OCTOBER 26, 2006**
- 42
- 43 **2. SPECIAL COUNCIL WORK SESSION (BUDGET) FOR OCTOBER 31, 2006**
- 44
- 45 **3. SPECIAL COUNCIL WORK SESSION (BUDGET) FOR NOVEMBER 8, 2006**
- 46
- 47 **4. SURFACE WATER WORK SESSION FOR JUNE 12, 2007**
- 48
- 49 **5. COMMITTEE OF THE WHOLE FOR JUNE 19, 2007**
- 50
- 51 **6. REGULAR COUNTY COUNCIL MEETING FOR JUNE 19, 2007**
- 52
- 53

1 **OPEN SESSION**

2
3 The following people spoke:

4
5 Larry Helm, 2660 East 41st Terrace/4145 Squalicum Lake Road, stated Lake
6 Whatcom Water and Sewer District is preparing to withdraw large amounts of clean Lake
7 Whatcom recharge water from an underground stream at the bottom of Agate Bay Road.
8 The Y Squalicum Water Association and the Squalicum Valley Community Association sent
9 certified letters opposing the water line to the Planning Department. They never received a
10 response. They sent another certified letter to the Planning Department asking why they
11 didn't receive a response to their legal attempt to participate in the Planning process. They
12 did not receive a response to the second letter. Then he called the Executive, when he was
13 informed that the Hearing Examiner was holding a hearing on this item tomorrow. He
14 protests this type of last minute response from the Planning Department. He would like to
15 see an updated file on the project. One resident got a packet in the mail today on this
16 project. The Y Squalicum Water Association makes a formal plea to hold this hearing for
17 two weeks so they can do legal and scientific briefs for the judge. The mental health facility
18 at Agate Heights needs water because their wells failed. Many wells on the west side of
19 Squalicum Mountain have failed. Adequate well tests aren't required when houses are built.
20 The County should immediately require 24-hour well tests for all new wells in this area,
21 because of the well failures. The current residents may have to deepen their well if this
22 goes through.

23
24 Dennis Jones, 1487 Sudden Valley, stated he thanks Rand Jack and the Whatcom
25 Land Trust for the Stimson Reserve. There is a Whatcom County Parks Foundation that
26 does Tennant Lake and Fragrance Garden. Include the Foundation in the Lily Point
27 acquisition.

28
29 Regarding Squalicum Mountain, the people up there have to show the people a plan.
30 There are two major sites up there. Developing 20 acres at a time would slaughter
31 Squalicum Mountain. They need to take a look at this. For Squalicum Mountain, do it right
32 or don't do it at all.

33
34 He asks the County to fund Stewards of the Lake.

35
36 Judy Westoff, 4172 Squalicum Lake Road, stated the law must apply equally to
37 everyone. On Squalicum Mountain, those people aren't practicing the law. If the land
38 disturbance permit says to not cut down more than 66% of the trees, that means a clear
39 cut to them. If the zoning is one dwelling per five acres, that means two acres to them.
40 They are going to build a large water tank. The water district will bring water to them,
41 even if that is also illegal. She wants something done. Executive Kremen said he wouldn't
42 seek another term, but he is.

43
44 Kris Unger, 2195 Northshore Road, stated a recent editorial in the Herald identified
45 six issues that local candidates should address this election season, including growth,
46 budgeting and respect for taxpayer money, environment, public safety, transportation, and
47 leadership. Current office holders need to be judged on their performance in dealing with
48 these issues. The County Council track record is not good in this respect. They have been
49 dysfunctional in managing its responsibilities. The split of legislative and administrative
50 functions often do not work in concert. There is a tendency to ignore public comment.
51 There is a lack of coordination with the City Council and other agencies. There is a lack of
52 oversight of projects with approved permits. Something may be wrong with the
53 organizational structure. Some managers are so activity-orientated that they fail to work on

1 the right problems. They need managers with experience so they don't do something that
2 was unsuccessful in the past. The Council has been responsible for adding to the Planning
3 Department workload.

4
5 Johnny Grames, 1506 East Maplewood Avenue, stated that when they pledge
6 allegiance to the flag, one nation under God, there are severe implications to that pledge.
7 One is the way Christians view nature. He walked the property at Lily Point and look on it
8 from Birch Bay. If there is ever a property worth owning, it is this one.

9
10 Regarding democracy, there is a conflict between a God that runs the universe like
11 an imperial monarchy, which is reflected in the court system, which makes decrees and
12 hears pleas from the citizenry. The other option is participatory democracy and the consent
13 of the governed.

14
15 In Iraq, they started using community-based policing. It works.

16
17 Tim Paxton, 2120 Ellis Street, stated he represents the Clean Water Alliance. There
18 is an upcoming Boundary Review Board meeting to discuss the potential incorporation of
19 Sudden Valley. The Boundary Review Board gets to be the wild card in this process.
20 Whatever happens, there will be a lawsuit from the proponents. This is a chance for the
21 County Council to shut down this process, so the Boundary Review Board doesn't give the
22 proponents of Sudden Valley a presumption of validity.

23
24 Greg Waters, ReSources Program Manager, stated they have been restoring,
25 rebuilding, and recycling electronics in Whatcom County since 2004. They are the first not-
26 for-profit, volunteer based electronics recycler in the state of Washington. Adopt the
27 resolution. When the new State legislation goes into effect, a local ordinance will bolster the
28 State law in three critical ways. First, the resolution address something missing from the
29 State law, which is a requirement for electronics waste to be recycled. Second, they must
30 pay attention to international treaties and conventions when recycling, which prohibits the
31 movement of electronic waste from developed nations to developing nations. Don't ship
32 toxic waste to countries that are the least capable of containing it. Third, reuse is the most
33 responsible way to recycle. Build the possibility of reuse into an ordinance that will
34 hopefully follow this resolution. Handle e-waste in an environmentally responsible way.

35
36 Fred Miller, Ryzex, stated the Council should adopt the resolution regarding
37 electronics recycling. He is available for questions. They support ReSources recycling
38 program.

39
40
41 **OTHER ITEMS**

42
43 **4. RESOLUTION DECLARING WHATCOM COUNTY'S INTENT TO REQUIRE THE**
44 **RECYCLING OF ALL ELECTRONICS AND MERCURY-CONTAINING PRODUCTS**
45 **IN THE COMMUNITY WASTE STREAM (AB2007-300)**

46
47 ***Brenner reported*** for the Public Works and Safety Committee and ***moved*** to
48 approve the resolution.

49
50 Crawford stated he supports the resolution fully. He asked what the cost ultimately
51 is.

1 Brenner stated that these questions will come up in the future. This is a resolution
2 that will start the process during which those issues will be discussed.
3

4 Crawford stated he's glad the Executive brought this forward. It's timely. It's a
5 great way for Whatcom County to set the example for other counties in the state.
6

7 ***Motion carried unanimously.***
8
9

10 **PUBLIC HEARINGS**
11

12 **1. ORDINANCE ADOPTING THE CURRENT STATE BUILDING CODE AND**
13 **REPEALING THE EXISTING TITLE 15 OF THE WHATCOM COUNTY CODE**
14 **(AB2007-259)**
15

16 Weimer opened the public hearing and, hearing no one, closed the public hearing.
17

18 Wayne Harrison, Planning and Development Services Department, gave a staff report
19 and stated the code changes every three years, when the County readopts and reaffirms
20 these codes. They included amendments appropriate to Whatcom County.
21

22 Brenner asked if they are adopting what the State has already adopted. Harrison
23 stated they are adopting what the State has adopted through the legislature. They are
24 amending portions of the code where the State Building Code Council allows, such as in the
25 administrative chapters.
26

27 Brenner asked how violations are going to be handled. Harrison stated they've
28 always dealt with violations. The violations section is the tightest and most comprehensive
29 than any other violation section they've produced. They've learned from their mistakes.
30 There is a lot of good information in that section. In the past, they had to serve a building
31 code correction notice or stop work order in person. Staff wasn't always able to do that.
32 Now, the code allows them to either serve the person, post the notice on the site, or serve
33 it to workers on the site. The staff has more options.
34

35 ***Nelson moved*** to adopt the ordinance.
36

37 ***Motion carried unanimously.***
38

39 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 3 TO PROVIDE FOR**
40 **INCREASING THE COLLECTION RATE OF SALES TAX FROM .08% TO .09%**
41 **(AB2007-278)**
42

43 Weimer opened the public hearing and the following people spoke:
44

45 Dennis Jones, 1487 Sudden Valley, stated that with a little money, the County can
46 go a long way with the Chuckanut Mountain Parks District. A mission to sustain Lake
47 Whatcom will take more money. Support a tax rate increase if it is designated for the Lake
48 Whatcom Management Plan goal one regarding land preservation. The conservation futures
49 fund won't do it.
50

51 Dodd Snodgrass, Port of Bellingham, stated he is in favor of this ordinance. It
52 relates to the funding for the Economic Development Investment (EDI) Program. This is a
53 rebate on the State sales tax. Because retail growth is doing so well, they are able to

1 generate a lot of funds for this program. It's a good program for all the jurisdictions in the
2 county.

3
4 Hearing no one else, Weimer closed the public hearing.

5
6 ***Nelson moved*** to adopt the ordinance.

7
8 Brenner stated she will support the ordinance, but this is crumbs. When the Growth
9 Management Act was passed, the County, as a rural county, was promised by the State that
10 there would be a redefining of revenue sources so rural, unincorporated areas would not get
11 left out. The County was told to put all the bigger, revenue producing items into the cities.
12 This is about the County getting money back from the State on a tax that already exists,
13 not a new tax. The amount is minute and insulting, considering what the State said it would
14 do.

15
16 ***Motion carried unanimously.***

17
18
19 **CONSENT AGENDA**

20
21 ***Crawford*** reported for the Finance and Administrative Services Committee and
22 ***moved*** to approve Consent Agenda items one through nine.

23
24 McShane withdrew item nine.

25
26 ***Motion to approve Consent Agenda items one through eight carried***
27 ***unanimously.***

- 28
29 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A DRUG**
30 **TASK FORCE CONTRACT WITH THE WASHINGTON STATE DEPARTMENT OF**
31 **COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT FOR PAYMENT OF**
32 **WAGES FOR ONE WHATCOM COUNTY SHERIFF'S DETECTIVE AND ONE**
33 **BELLINGHAM POLICE DEPARTMENT DETECTIVE IN THE AMOUNT OF**
34 **\$178,655 (AB2007-287)**
35
36 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A LEASE**
37 **AGREEMENT WITH WASHINGTON STATE DNR TO LEASE FIELD OFFICE**
38 **WORKSPACE IN THE AMOUNT OF \$925 PER MONTH FOR TWO-YEAR TERM**
39 **(AB2007-288)**
40
41 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A GRANT**
42 **APPLICATION PROCESS FOR A 2007 APPLICATION FOR THE JUSTICE**
43 **ASSISTANCE GRANT FROM THE DEPARTMENT OF JUSTICE FOR THE ADULT**
44 **DRUG COURT (AB2007-289)**
45
46 **4. RESOLUTION ESTABLISHING COUNTY ROAD PROJECT #907019, EVERSON-**
47 **GOSHEN PAVEMENT RECONSTRUCTION SMITH ROAD VICINITY, AND**
48 **AWARD OF CONTRACT TO LOW BIDDER WHATCOM BUILDERS, INC. IN THE**
49 **AMOUNT OF \$187,120 (AB2007-290)**
50
51 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A GRANT**
52 **AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF ECOLOGY**

1 **FOR ADMINISTRATIVE AND ACTION PROJECTS FOR THE WHATCOM COUNTY**
2 **MARINE RESOURCES COMMITTEE IN THE AMOUNT OF \$184,000**
3 **(AB2007-291)**
4

- 5 6. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO**
6 **AMENDMENT NO. 3 TO THE CONTRACT WITH THE LUMMI INDIAN BUSINESS**
7 **COUNCIL FOR THE LUMMI SHORE ROAD/LUMMI VIEW DRIVE PHASE 2**
8 **CONSTRUCTION PROJECT (CRP 900905) IN THE AMOUNT OF \$155,800, FOR**
9 **A TOTAL CONTRACT OF \$1,355,800 (AB2007-292)**
- 10 7. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #07-58 TO**
11 **LOW BIDDER VALLEY FREIGHTLINER FOR REPLACEMENT OF THREE 5-YARD**
12 **DUMP TRUCKS IN THE AMOUNT OF \$290,379.38 (AB2007-293)**
- 13 8. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
14 **COOPERATIVE AGREEMENT WITH THE US ARMY CORPS OF ENGINEERS FOR**
15 **LEVEE REHABILITATION WORK ON THE MT. BAKER RIM LEVEE IN THE**
16 **AMOUNT OF \$210,000 (AB2007-294)**
- 17 9. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
18 **COOPERATIVE AGREEMENT WITH THE US ARMY CORPS OF ENGINEERS FOR**
19 **LEVEE REHABILITATION WORK ON THE SANDE-WILLIAMS LEVEE IN THE**
20 **AMOUNT OF \$200,000 (AB2007-295)**
21
22
23
24

25 *Crawford moved* to approve the request.
26

27 McShane stated the area does not have a river management zone that makes sense
28 at this time. This is a highly constrained section of the river. The levee has had repeated
29 failures. They will continue to see failures. Come up with a river management zone to
30 make well-informed decisions that are cost-effective. This will be an ongoing cost to the
31 County. There are long-term effects and costs elsewhere.
32

33 *(Clerk's Note: End of tape one, side A.)*
34

35 McShane continued to state that other areas of the river are equally at risk. He
36 cannot support this.
37

38 Crawford stated he supports the request. He does share some of Councilmember
39 McShane's concerns, but there is a need to support the infrastructure that the County has.
40 The cost will be paid mostly by the Army Corps of Engineers. Until there is a longer-term
41 plan, fixes like this are appropriate.
42

43 Caskey-Schreiber asked staff to explain how much the County has spent fixing this
44 levee. She asked if the other side of the river will get hit hard if they fix this side of the
45 river.
46

47 Paul Cooper, Public Works Department, stated the County spent \$50,000 in 2003.
48 The Army Corps of Engineers also did a repair project with a total project cost estimated at
49 \$300,000. In 2005, they did some work with Diking District 2 at site two. Since the Corps
50 was out there, they wanted to do additional work using County money for technical
51 assistance. The Corps said they would do that permitting, but it didn't get permitted legally.
52 Diking District 2 has another proposal funded entirely by the County in about \$200,000.
53

1 The work that is done in the upper reach may not necessarily affect the Maricle
2 property. It would affect more the potential for the clay bank to unravel.
3

4 Caskey-Schreiber stated it's difficult to decide when one side of the river has no
5 representation, yet will be affected. It doesn't seem like a good use. They are hearing
6 only one side of it. Cooper stated the opposite side has very high banks, so there isn't a
7 diking district because it doesn't need dikes. She indicated the location of past erosion
8 further downstream.
9

10 Caskey-Schreiber asked how much they have spent on this levee historically.
11 Cooper stated she can gather and provide that information at an upcoming work session.
12 Not all the money spent has been from the County. She didn't bring that information to this
13 meeting. The amount spent on the Sande-Williams system has been millions.
14

15 Crawford stated there are long-term problems in the area. The County must also
16 address the near-term issues. The financial mix of this proposal is prudent for Whatcom
17 County. Use those funds at this time. Continue to develop a long-term strategy for this
18 site.
19

20 McShane stated he used to serve on the Flood Control Zone District Advisory
21 Committee. The bulk of this levee, which caused the problems downstream, had been
22 constructed before he served on that committee. This was one of the reasons he applied to
23 be on that committee. He was alarmed at how that levee was constructed, and anticipated
24 future problems. Since, additional work has been done around site one. The bluff in that
25 area is beginning to collapse. They will have another high clay bank failure in that zone.
26

27 He can appreciate the concern to do this now. When he was on the Flood Advisory
28 Committee in 1999, they began the work for a long-term plan on this reach. It's been eight
29 years, but there is no proposal for a maintenance area. The work has been frozen because
30 people are uncomfortable with it. Since it's been frozen, the County continues to spend
31 money out there. They have to deal with it. The County must demand to not fund projects
32 unless there is a river management zone on each reach. If the County doesn't have those
33 zones, it ought not to fund those programs. The idea of a river management zone is to
34 save the County money in the long run, and protect that fund for all who benefit. Without a
35 zone, they are not spending money wisely. They are considering a project upstream that
36 won't likely be permitted, to contain the river to the top part of the dike at site two. The
37 expense and hassle of trying to get those permits will eat up a lot of staff time. They are
38 going to have problems keeping the river on the one side, anyway. The diking district
39 recognizes that. Figure out where they don't want the river to go, and set a management
40 zone to save money in the long run.
41

42 Brenner stated she is all for saving money. The whole reason for the original flood
43 fee was to do things like this. It was also for long-term solutions. This is necessary at this
44 time. If they don't do this, they are going to have more problems when the next flood
45 comes. In other areas of the county, the Council is concerned about protecting peoples
46 investments and expectations. This issue doesn't get much respect. The County will have
47 to keep putting money into this area. That's the reason for the fee.
48

49 Nelson asked the likelihood of the river being protected at those points if County
50 doesn't spend this money. Cooper stated they aren't confident the rock is there. If the
51 river works behind it, it will be behind the levee structure. Site two is more of a revetment.
52 It's hard to know what will happen during a flood event.
53

1 Nelson asked if there has been an analysis of the areas that would be protected.
2 Cooper stated the diking district didn't do an analysis. This request is actually an Army
3 Corps repair of an existing structure, who does things at the County's request without
4 weighing in on the big picture.
5

6 Nelson stated they need to have protection delineations and meander lines in flood
7 subzones. He asked if that's been done. Cooper stated the diking district has drawn its
8 line. It's come forward to the Council. The staff was going to provide some technical
9 analysis, which is still underway.
10

11 Nelson stated that the district has done work to meet the Council's requirements and
12 determined what it needs for its community. The County should fund these projects,
13 particularly when the Army Corps of Engineers participates. He asked the County's liability
14 if they don't fund this project from the flood control tax that the residents pay into for this
15 purpose.
16

17 Caskey-Schreiber stated its taxpayer dollars, no matter which jurisdiction the money
18 comes from. A question is whether the land is a good candidate for channel migration
19 buyout or a money pit. The land around this project may not be worth the millions of
20 dollars they've spent. An evulsion is going to happen at some point during a severe
21 weather event. All this money they've spent on the levee will be for naught.
22

23 Fleetwood asked why they are not getting on with the work of establishing channel
24 migration zones. Cooper stated eight years ago, they just adopted a plan and started
25 working on this reach. The issue here is channel migration, not over-bank flooding.
26 Downriver, things don't migrate as much as they do in this location. The issue was put on
27 hold because they were trying to go downriver, but it didn't make sense without a hydraulic
28 model or a big picture of the overflow corridors. Since then, the State Department of
29 Ecology has come up with the channel migration zones (CMZ) as regulatory zones. The
30 committee struggled with it. The members are flood protection-oriented, not regulation-
31 oriented. Therefore, the advisory committee stopped and decided where it would spend the
32 County's money. Now, the committee doesn't feel like it can make a recommendation, and
33 wants to send it to the Council. It's done with reach four.
34

35 Whether or not the County draws this line is up to the County and the Council. This
36 is one of many programs in the plan. She struggles with this. It's hard to leave something
37 vulnerable. The more they impinge the river, the more it costs. Getting from here to there
38 is a problem.
39

40 Weimer asked if denying this request would change the County's relationship with
41 the Corps. Cooper stated it doesn't. They can do this next year if it's still relevant. They
42 can do the downstream part at site one this year. They can do the upstream part, which is
43 the part that will be difficult to permit, next year.
44

45 McShane stated it comes down to the fact that this is a hard policy. The people who
46 care about this issue aren't the people who are paying the fee overall in the county. It will
47 be those whose property may be affected. It's hard to be in a committee and make a
48 recommendation that is contrary to their wishes. It puts staff in a very hard position. At a
49 certain point, it's the Council's fiduciary responsibility to make decisions for the flood fund
50 that are based on science and cost savings. Have a broad policy that protects the fund and
51 also protects property to the maximum extent possible. That means establishing a line
52 where it makes sense to manage the river. This line doesn't make sense. If it makes sense
53 to the local district, and the district is willing to pay for it, it can enter into this agreement

1 with the Corps. Think about the clay banks and the damage done on the side of the river
2 that is not part of the diking district.
3

4 Brenner stated the Council's fiduciary responsibility was for flooding, not stormwater.
5 Some of that money has been appropriated for stormwater fixes. This is a classic example
6 of a short-term solution the County is supposed to do until the long-term plan is in place.
7

8 Weimer ask if they are talking about having a new dike along the money line.
9 Cooper stated it is a vision. They would have to pursue funding to set back a levee. She
10 would look at migration based on how much area the river needs, and use modeling
11 analysis to see how high the water gets and whether a levee is necessary. The more width
12 they can give the river, the less they may need a levee.
13

14 Fleetwood asked if Councilmember McShane said that the County won't get to the
15 hard work of creating a channel migration zone as long as they continue to support these
16 fixes.
17

18 McShane stated the bulk of the work for establishing a river management zone has
19 been done. The line is significantly far back. If they decided based purely on geologic
20 science, it would be very far back. However, it's practical to protect public structures and
21 homes. The infrastructure was part of where the line should be drawn. The line drawn in
22 1999 hasn't changed much from what was drawn when figuring out the meander and
23 amplitude of the river. There was some tweaking to protect homes and roads. That is the
24 level where the County would put its flood district money. The amount and frequency of
25 expense would go down based on that analysis. This comes down to a district that doesn't
26 like that. That's understandable that they're not excited about losing portions of their
27 property. The fact is that they are losing portions of property, even with this revetment,
28 which in itself is partially responsible for loss of property. It's pushed the river hard against
29 the other side. The tribes and co-managers are very concerned about the way the Army
30 Corps of Engineers has used emergency fixes as an excuse to get rock in the river.
31

32 ***Motion failed 3-4 with Crawford, Nelson, and Brenner in favor.***
33
34

35 **OTHER ITEMS**
36

- 37 **1. RESOLUTION DOCKETING A ZONING TEXT AMENDMENT THAT WOULD ADD
38 LAKE PADDEN TO WHATCOM COUNTY CODE CHAPTER 20.71, 20.80.635,
39 AND 20.80.735, AS A WATER RESOURCE PROTECTION OVERLAY DISTRICT,
40 STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL
41 MANAGEMENT AREA (AB2007-286)**
42

43 This item was withdrawn from the agenda.
44

- 45 **2. ORDINANCE FOR REDUCING THE PARKS AND RECREATION DEPARTMENT'S
46 PETTY CASH REVOLVING FUND TO \$4,700 (AB2007-276)**
47

48 ***Crawford*** reported for the Finance and Administrative Services Committee and
49 ***moved*** to adopt the ordinance.
50

51 ***Motion carried unanimously.***
52

1 **3. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, SEVENTH**
2 **REQUEST, IN THE AMOUNT OF \$500,000 (AB2007-277)**
3

4 *(Clerk's Note: See Special Presentation item #2 for a discussion of this item.)*
5

6 **Crawford** reported for the Finance and Administrative Services Committee and
7 **moved** to adopt the ordinance.
8

9 Brenner stated she supports this ordinance. The Public Works Committee discussed
10 the Nooksack Salmon Enhancement Association's (NSEA) request for a Conservation Corps
11 crew. If NSEA doesn't meet this August deadline, it loses it's grant. The committee voted
12 to request that the administration allow this to be in a budget amendment. She asked to
13 add the NSEA funding to this request.
14

15 Pete Kremen, County Executive, stated it wouldn't be appropriate to do it tonight,
16 but he is working to come up with that funding for NSEA. He also believes it is an
17 expenditure that returns large dividends for the community.
18

19 **Motion carried unanimously.**
20

21 **Addendum:**

22 **5. RESOLUTION INITIATING ZONING TEXT AMENDMENTS BROUGHT FORWARD**
23 **BY COUNTY COUNCILMEMBERS TO BE ADDED TO THE WHATCOM COUNTY**
24 **CODE TITLE 20 ANNUAL DOCKET (AB2007-302)**
25

26 Weimer stated the County Code has a process for the County Council to add non-
27 emergency zoning amendments by resolution. The Councilmembers submitted their items
28 to the Planning Department by the June 30 deadline. This is a resolution that will officially
29 add them to the docketed list.
30

31 Crawford asked if the Executive's Office is holding a planning retreat to talk about
32 projects like this, and how they fit in with the workload. He has never seen these until
33 today. He asked why the Council is now voting on a resolution to put these things forward.
34 It wasn't even in the Council packet.
35

36 Caskey-Schreiber stated the councilmembers have a right to do text amendments.
37 They are due every June 30. Some of these things need to be done. It's not her fault that
38 the Planning Department is so backed up. If they can't get the work done, the County
39 needs to hire outside consultants to get it done. She isn't going to subjugate her rights to
40 represent her constituents with the excuse of a workload that is too long.
41

42 Brenner stated some of the items on the list are not broad, sweeping items. They
43 are small tweaks that need to happen. In the past, they talked about wanting both big and
44 small items to come forward. They can't afford to put aside the small things in favor of the
45 big things, because the small things would never get done.
46

47 Nelson stated Councilmember McShane's proposal for Lake Padden can have broad
48 impacts on many jurisdictions and developments. There may be fiscal repercussions. He's
49 reluctant to put some of these items forward without a fuller discussion and an evaluation of
50 the fiscal impacts to the County workload and to other jurisdictions and districts.
51

52 McShane stated he brought forward a zoning text amendment specific to Lake
53 Padden. This resolution is to have the discussion to which Councilmember Nelson is

1 referring. If there are items that a councilmember doesn't want to approve, the
2 councilmember can make a motion to amend this resolution by removing any of the
3 proposals. If there is a motion to amend, the Council can argue that motion.
4

5 **McShane moved** to approve the resolution.
6

7 Brenner stated she's not sure about supporting one item, but she would like to get
8 more information about it. She's interested in finding out more about these items. She can
9 always vote no when they get all the information.
10

11 Weimer stated that according to the Code, the Council must pass this resolution to
12 have the items put on the list of zoning amendments, which then goes through the annual
13 process. It's similar to the Comprehensive Plan amendment process, but the code isn't as
14 clearly defined for zoning amendments. This has fallen through the cracks in years past.
15

16 Nelson stated he is concerned about adding areas in a piecemeal fashion rather than
17 a comprehensive, countywide review. First they added Lake Whatcom, Lake Samish, and
18 Drayton Harbor. Now they're adding Lake Padden.
19

20 Crawford stated that if they are going to meet specifically with the administration on
21 July 24 to discuss precisely the Planning Department workload and the status of projects,
22 then wait until then to talk about these projects, which are all new projects. The Council
23 seems to be saying that not enough progress is happening in the Planning Department, yet
24 it keeps adding new items to the department's workload. Wait a couple of weeks for the
25 meeting.
26

27 Caskey-Schreiber stated the Council doesn't have access to staff. If she has a
28 constituent that needs a problem fixed, she is not going to see if staff can work it into their
29 schedules. If the workload is too much, the Council should budget for more staff or hire
30 consultants to get the work done. She asked to what extent she is expected to change her
31 job to meet their workload. She is supposed to represent citizens who need things
32 changed.
33

34 Brenner stated the Council had a deadline to submit items to the Planning
35 Department by June 30.
36

37 Crawford asked their deadline tonight.
38

39 *(Clerk's Note: End of tape one, side B.)*
40

41 Karen Frakes, Prosecutor's Office, stated the code is silent on that point. It's vague.
42 Her advice is the sooner, the better. She agrees that they don't have to do it tonight. The
43 intent of the code is for the Council to meet that same deadline.
44

45 Weimer stated any citizen can bring forward a zoning text amendment at any time of
46 the year. The Council can't do that. It has to go through this resolution process. He
47 agrees that they don't have to do it tonight.
48

49 McShane stated the Council is trying to make a commitment to pursue any one of
50 these. Councilmember Crawford's concern is that the County may not have capacity to
51 pursue these issues. Councilmember Caskey-Schreiber said she didn't want to be
52 constrained by a lack of staff to do her job. He agrees with that. Each of these proposals
53 are not that complex. His proposal is specific and straightforward. Any councilmember can

1 move to remove an item from the list. Each councilmember should have a sense of the
2 direction where they want to go. Don't support things just because they want to have more
3 information.
4

5 **Nelson moved** to amend the resolution to remove the Lake Padden special water
6 district proposal. Look at the issue more comprehensively so the staff doesn't have to
7 repeat this work each time the Council wants to add an area to a special water district.
8

9 Brenner stated that is the item for which she has mixed feelings, because she
10 doesn't have enough information about whether this is to reduce density. If it is, she won't
11 support it. She can support the proposal if it's to have a higher level of protection for the
12 development that is built.
13

14 McShane stated there is no zoning amendment in his proposal. It's all about the
15 development regulations, including low-impact development and green building.
16

17 Fleetwood stated he agrees with everything he's heard tonight. The Council doesn't
18 get to assume that all proposals will be reviewed. They have limited staff and limited
19 resources. There could be a scenario where the Council must be discriminating. That's the
20 point of the resolution process. When they discussed having a retreat, they created an
21 expectation that they would discuss policies relating to adopting zoning text amendments,
22 among other things. That would allow them to figure out some criteria for whether or not
23 they would approve or deny a proposal. It's unlikely that staff will embark on these
24 proposals in the next two weeks. They should first have a policy discussion.
25

26 Crawford stated that if the Council has this discussion on July 24 and the
27 administration agrees to look at these and fit them into the docket, then he will support
28 them. He will support the items if the administration feels they can docket them.
29

30 Brenner stated she is comfortable either way. Two weeks either way doesn't matter
31 if there's no deadline.
32

33 Nelson stated he doesn't have a concern with delaying for two weeks.
34

35 **Crawford moved** to hold in Council for two weeks.
36

37 McShane stated now is when the Council is either interested in moving these things
38 forward, or not. There have been examples where they've carried over Comprehensive Plan
39 amendments because they were complex. The Council can do the same with these.
40 Docketing these now would be a good thing to do, so the Council can weigh its priorities.
41

42 Nelson stated he would like to work with Councilmember McShane on water resource
43 protection for the entire county, not just in this area. They can put something forward in
44 two weeks, rather than redoing each area every two or three years.
45

46 Caskey-Schreiber stated she would rather just figure it out tonight.
47

48 Fleetwood stated it comes down to the primary reason they decided to have the
49 retreat. They were going to address policies and criteria for establishing when they docket
50 things. If there is a scenario where they have an enormous number of zoning text
51 amendments, there will be a problem. That's why they need to have criteria for accepting
52 proposals. It's a reflection of the reality that they have limited staff resources.
53

1 Brenner asked whether docketing tonight or delaying is a problem for the
2 administration, one way or another.

3
4 Pete Kremen, County Executive, stated it doesn't make that much of a difference. If
5 docketed tonight, they can still include the items in the prioritization exercise.

6
7 ***Crawford withdrew his motion*** to hold for two weeks.

8
9 Caskey-Schreiber stated there is already a process for docketing that they've
10 exercised well in the past. If a majority of councilmembers want to docket something,
11 that's the fair process to use. If a councilmember brings something forward, and other
12 councilmembers support it, that's the decision. She wants a timeline more than a
13 prioritization. Everything they've docketed is important. She doesn't want to pick and
14 choose. The Council voted to docket them, so they should all get done.

15
16 Weimer stated the result they hoped for with the retreat would be a list of proposals
17 and how far the staff can get on that list, and whether they need more staff or to
18 reprioritize.

19
20 Caskey-Schreiber stated she would rather add staff.

21
22 Fleetwood stated there is a procedure for Comprehensive Plan amendments, but not
23 for zoning text amendments.

24
25 Weimer restated the motion to remove the Lake Padden special water district from
26 the list.

27
28 ***Motion failed 1-6 with Nelson in favor.***

29
30 Weimer restated the motion to approve the resolution.

31
32 ***Motion carried 6-1 with Nelson opposed.***

33
34
35 **INTRODUCTION ITEMS**

36
37 ***Fleetwood moved*** to accept the Introduction Items.

38
39 ***Motion carried unanimously.***

- 40
41 **1. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER'S DECISION ON**
42 **SHR06-0021 AND SHC06-0009, FILED BY SIMI JAIN, ATTORNEY FOR LEN**
43 **AND PAT HELTON, REGARDING REPAIRING A PORTION OF DRAYTON**
44 **HARBOR ROAD (AB2007-279)**
45
46 **2. ORDINANCE AMENDING WCC 11.32, BOATING AND SWIMMING, SPECIAL**
47 **RESTRICTIONS (AB2007-284)**
48
49 **3. ORDINANCE AMENDING WHATCOM COUNTY CODE, TITLE 20, CHAPTER**
50 **20.71, 20.80.635, AND 20.80.735, ON AN INTERIM BASIS, TO ADD LAKE**
51 **PADDEN, AS A WATER RESOURCE PROTECTION OVERLAY DISTRICT,**
52 **STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL**
53 **MANAGEMENT AREA (AB2007-286A)**

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- 4. **ORDINANCE APPROVING CONTINUATION OF THE FRANCHISE GRANTED TO CASCADE NATURAL GAS CORPORATION UPON MERGER OF CASCADE NATURAL GAS CORPORATION WITH MDU RESOURCES GROUP, INC. (AB2007-285)**
- 5. **RESOLUTION AMENDING THE 2007 ANNUAL CONSTRUCTION PROGRAM REGARDING NEW ROADWAY ON TIMSON WAY FROM WEST ILLINOIS TO MARINE DRIVE (AB2007-296)**
- 6. **ORDINANCE INCREASING WHATCOM COUNTY PUBLIC WORKS ENGINEERING'S PETTY CASH REVOLVING FUND BY \$100.00, FOR A TOTAL PETTY CASH FUND OF \$300.00 (AB2007-297)**
- 7. **ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, EIGHTH REQUEST, IN THE AMOUNT OF \$547,532 (AB2007-298)**

OTHER BUSINESS

Crawford asked if the Committee of the Whole meeting for July 24 will include the Bellingham urban growth area (UGA) discussion. It is out of committee now.

Fleetwood stated that is correct. It will come forward as a resolution on the July 24. The purpose of the resolution is to vote on the big pieces of the plan that will allow them to determine whether the County is consistent with the City of Bellingham's recommendations. If they are not consistent, then the County and City are required to try and reconcile differences. The resolution is non-binding. If they must reconcile with the City, the County and City will begin having meetings to see if they can agree upon certain items. Once they are done with the City, the County will schedule a public hearing and take a final vote to adopt the subarea plan.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Weimer stated he is in Seward, Nebraska next week. He will not be at the surface water work session next week. Councilmembers Caskey-Schreiber and Crawford are also out of town.

Brenner asked if there is a way to leave tomorrow's Hearing Examiner hearing open for two weeks so the Y Squalicum Water Association will have time to provide input.

Karen Frakes, Prosecutor's Office, stated that is up to the Hearing Examiner.

Brenner asked if the Council could make a motion to request that the Hearing Examiner hold the hearing open.

Frakes stated that if that decision is appealed, the Council is the body that decides the appeal. It makes her uncomfortable if the Council did that. The Squalicum Mountain folks should ask that the hearing be held open. If it isn't, they can appeal the decision based on the assertion that there were due process problems.

1 Caskey-Schreiber stated she has received calls about Security Specialists Plus (SSP)
2 and the quality of everything that is going on right now. She asked if anyone has checked
3 in.
4

5 Pete Kremen, County Executive, stated they have been checking on them.
6
7

8 **ADJOURN**
9

10 The meeting adjourned at 9:00 p.m.
11

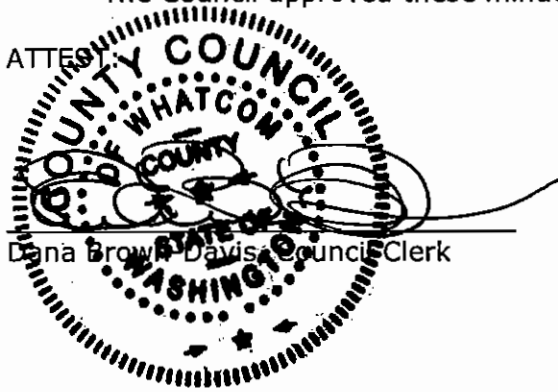
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13

14 Jill Nixon, Minutes Transcription
15

16 The Council approved these minutes on August 7, 2007.
17

18 ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Dana Brown Davis, Council Clerk



Carl Weimer, Council Chair